

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

Case No. 2:22-cv-0450

Hon. J.P. Stadtmueller

KAY X. YANG, and
XAPPHIRE LLC,

Defendants,

and

CHAO YANG,

Relief Defendant.

**PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT
AGAINST ALL DEFENDANTS**

Plaintiff U.S. Securities and Exchange Commission ("SEC"), pursuant to Federal Rule of Civil Procedure 55(a), respectfully requests that the Clerk of Court enter a default against Defendants Kay X. Yang and Xapphire LLC, and against Relief Defendant Chao Yang. In support of this request, the SEC submits the Declaration of Robert M. Moye ("Moye Declaration") and states as follows:

1. On April 13, 2022, the SEC filed a Complaint in this matter alleging that Defendants Kay X. Yang and Xapphire LLC violated the securities laws by raising at least \$16.5 million from approximately 70 investors through two fraudulent offerings. The Complaint also alleged that Relief Defendant Chao Yang received improper and illegal transfers of investor

money from the Defendants even though he had no right to receive any investor funds. (*See* Docket No. 1)

2. Also on April 13, 2022, counsel for the SEC emailed Defendants' counsel a copy of the SEC's Complaint. The SEC's counsel also attached, and requested that Defendants' counsel execute, the forms that would provide the Defendants and Relief Defendant additional time to respond by waiving formal service of process. (*See* Moye Declaration at ¶ 4)

3. However, neither Kay X. Yang, nor Xapphire LLC, nor Chao Yang have executed the waiver of service of process forms provided by the SEC. No counsel has entered an appearance on behalf of the Defendants or Relief Defendant in this matter. (*Id.* at ¶ 5)

4. On April 27, 2022, the SEC filed an Amended Complaint. The allegations of the Amended Complaint are substantially similar to the allegations of the Complaint. (Docket No. 4)

5. On May 5, 2022, the SEC caused Defendant Xapphire LLC to be served personally via its registered agent with a Summons and a copy of the Amended Complaint. (*See* Moye Declaration at ¶ 7; Docket No. 8)

6. On May 7, 2022, the SEC caused Defendant Kay X. Yang and Relief Defendant Chao Yang to be served personally at their home with a Summons and a copy of the Amended Complaint. (*See* Moye Declaration at ¶ 8; Docket Nos. 9, 10)

7. Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(ii), Defendant Xapphire LLC's response to the Amended Complaint was due on May 26, 2022, which was 21 days after it was served.

8. Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(ii), the responses of Defendant Kay X. Yang and Relief Defendant Chao Yang to the Amended Complaint were due

on May 31, 2022, which was the first day that was not a Saturday, Sunday, or legal holiday falling 21 days after they were served.

9. To date, none of Xapphire LLC, Kay X. Yang, or Chao Yang have filed any response to the SEC's Amended Complaint. (*See* Moyer Declaration at ¶ 9)

10. Accordingly, a default should be entered against each of Defendants Kay X. Yang and Xapphire LLC, and Relief Defendant Chao Yang by the Clerk of Court. *See* Fed. R. Civ. P. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.")

WHEREFORE, Plaintiff U.S. Securities and Exchange Commission respectfully requests that the Clerk enter a default against Defendants Kay X. Yang and Xapphire LLC and Relief Defendant Chao Yang.

Dated: June 23, 2022

By: /s/BeLinda I. Mathie

Robert M. Moyer (moyer@sec.gov)

BeLinda I. Mathie (mathieb@sec.gov)

U.S. Securities and Exchange Commission

Chicago Regional Office

175 West Jackson Boulevard, Suite 1450

Chicago, Illinois 60604

Attorneys for the Plaintiff

CERTIFICATE OF SERVICE

I certify that on June 23, 2022, I caused a copy of the foregoing document to be served by

U.S. Mail delivery, upon:

Kay X. Yang
9855 West Hawthorne Road
Mequon, WI 53097

Xapphire LLC
c/o A Registered Agent, Inc.
9 The Green, Ste. A
Dover, DE 19901

Chao Yang
9855 West Hawthorne Road
Mequon, WI 53097

/s/BeLinda I. Mathie
BeLinda I. Mathie